

## **MEMORANDUM**

**SUBJECT:** Recommendation on the Disposal of Waste Lumber Preserved with Chromated Copper Arsenate (CCA)

**FROM:** Robert Springer, Director  
Office of Solid Waste

**TO:** RCRA Division Directors  
EPA Regions I to X

**COPY:** Association of State and Territorial Solid Waste Management Officials (ASTSWMO)

As discussed below, wood treated with Chromated Copper Arsenate (CCA) is regulated under the jurisdiction of state and local governments primarily as a non-hazardous solid waste when discarded. Discarded CCA-treated lumber is usually land disposed in either construction and demolition (C&D) landfills, municipal solid waste landfills, or industrial non-hazardous waste landfills. EPA is recommending that in situations where discarded CCA-treated wood is to be land disposed, the land disposal facility be designed to minimize the possibility of release of hazardous constituents, including arsenic, into groundwater. Landfill standards consistent with this recommendation are the design criteria and associated performance standards found in the requirements for municipal solid waste landfills at 40 CFR 258.40.

### *Background*

Under the existing federal hazardous waste regulations, discarded arsenical-treated wood (which in most cases is treated with CCA preservative) is generally not subject to regulation as a hazardous waste. This is because of the existing exemption at 40 CFR 261.4(b)(9),<sup>1</sup> originally promulgated in the November 25, 1980 *Federal Register*. In addition, some amount of discarded CCA-treated wood is also exempt from hazardous waste regulation when it is “household waste,”<sup>2</sup> and therefore can often be discarded along with household trash. As a result, the disposal of discarded CCA-treated wood is generally under the jurisdiction of state and local solid waste management authorities. Currently, many state and local governments have specific regulations, guidelines, and recommendations for the management and disposal of discarded CCA-treated wood. In addition, some states are developing legislation and regulations to prohibit or restrict activities such as burning CCA-treated wood, producing wood mulch using CCA-treated wood, and disposing of CCA-treated wood in ‘unlined’ C&D landfills. Therefore, we would suggest that you contact your state and local authorities regarding specific policies or regulations concerning the disposal of CCA-treated wood.

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<sup>1</sup>“Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood product for these materials’ intended end use.” 45 *FR* 78530. Note that wood mulch produced from discarded CCA-treated wood is not exempt under this provision, as was clarified in a recent EPA memorandum dated January 6, 2004.

<sup>2</sup>40 CFR 261.4(b)(1)

### *Recommendation*

On December 31, 2003, a voluntary industry phase-out of CCA-treated wood for most residential purposes became effective. While EPA continues to evaluate potential exposures and risks from CCA-treated wood,<sup>3</sup> arsenic is a known human carcinogen, and the Agency believes that any reduction in the levels of potential exposure to arsenic is desirable. Even with this phase-out, however, there will remain a ready supply of CCA-treated wood that will ultimately require disposal, considering the amount of this building material currently in use, and its typical service life (which can be many years). Therefore, EPA plans to continue to evaluate disposal practices for discarded CCA-treated wood, consistent with this overall goal of reducing potential exposure to arsenic.

In the meantime, as a prudent measure, we believe it is appropriate and reasonable for EPA to encourage that the land disposal of this material take place in a manner that minimizes any possibility of releases of hazardous constituents to groundwater resources. We are recommending that if discarded CCA-treated wood is to be disposed in a landfill, the landfill be designed to satisfy the standards for protecting groundwater in 40 CFR 258.40, which contain design and performance criteria. Our goal is to promote the sensible management of this material, by encouraging the use of landfills that meet these standards (whether through specific design criteria or through demonstrating compliance with performance standards) to ensure the utility of groundwater resources.

### *Next Steps*

The Office of Solid Waste is actively working on several programs related to this issue, including the Resource Conservation Challenge, which seeks to establish voluntary partnerships that will contribute to resource conservation; C&D Waste is one of the Challenge Areas under the Resource Conservation Challenge (RCC). We are also working on CCA-disposal issues with representatives from state agencies, through the Association of State and Territorial Solid Waste Management Officials (ASTSWMO). I encourage you and your staff to discuss your ideas with appropriate headquarters people, and to think creatively about ways in which we can promote this recommended approach in concert with the states. If you have any questions or ideas, please contact Bob Dellinger at 703-308-8252, or have your staff contact Ross Elliott at 703-308-8748. Thank you for your help in promoting the prudent management of CCA-treated lumber in the United States.

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<sup>3</sup>[www.epa.gov/pesticides/factsheets/chemicals/draft\\_cca\\_qa.htm](http://www.epa.gov/pesticides/factsheets/chemicals/draft_cca_qa.htm)